

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION :
CORPORATION, :

Plaintiff, :

-v- :

BERNARD L. MADOFF INVESTMENT :
SECURITIES LLC, :

Defendant. :

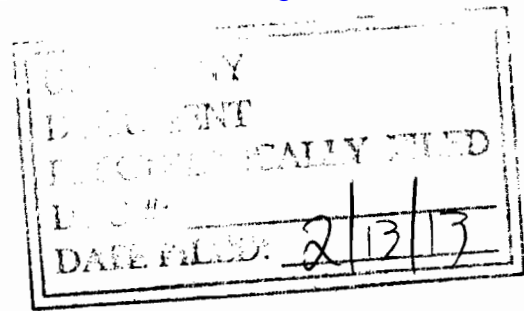
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In re: :

MADOFF SECURITIES :
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PERTAINS TO: :

Consolidated proceedings regarding :
11 U.S.C. § 502(d) :
-----X

JED S. RAKOFF, U.S.D.J.



12 MC 115

ORDER

On June 1, 2012, upon consent of the parties and having already withdrawn the reference from the Bankruptcy Court, the Court ordered consolidated briefing on the merits of whether the Securities Investor Protection Act ("SIPA"), 15 U.S.C. § 78aaa et seq., prevents Irving H. Picard (the "Trustee"), appointed as trustee pursuant to SIPA for the consolidated liquidation of Bernard L. Madoff Investment Securities, LLC ("Madoff Securities"), from seeking to disallow the net equity claims of customers against the debtor's estate under 11 U.S.C. § 502(d). See Order, In re Madoff Sec., 12 MC 115, ECF No. 155 (S.D.N.Y.

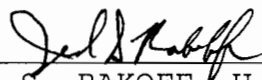
June 1, 2012). The Court heard oral argument on the consolidated briefing on October 9, 2012.

After carefully considering the parties' written submissions and oral argument, the Court hereby finds that SIPA does not preclude the application of Section 502(d) to customer claims against the Madoff Securities estate that could be found void or voidable within the limits prescribed by this Court's prior rulings in Picard v. Katz, 462 B.R. 447 (S.D.N.Y. 2011). The Court therefore departs from the reasoning set forth in the first full paragraph of page 456 of Picard v. Katz, which the Court no longer finds persuasive in this limited respect. In all other respects, however, the Court hereby reaffirms the reasoning and rulings set forth in Picard v. Katz.

An opinion explaining the reasons for this Order will issue in due course. Meanwhile, the Clerk of the Court is directed to close item 231 on the docket of this case.

SO ORDERED.

Dated: New York, NY
February 12, 2013



JED S. RAKOFF, U.S.D.J.